

109TH CONGRESS
2D SESSION

H. R. 6277

To amend the Internal Revenue Code of 1986 to provide for the establishment of disabled American financial security accounts for the care of family members with disabilities.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2006

Mr. CRENSHAW introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide for the establishment of disabled American financial security accounts for the care of family members with disabilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Disabled American Fi-
5 nancial Security Act of 2006”.

1 **SEC. 2. DISABLED AMERICAN FINANCIAL SECURITY AC-**
 2 **COUNTS.**

3 (a) IN GENERAL.—Subchapter F of chapter 1 of the
 4 Internal Revenue Code of 1986 (relating to exempt organi-
 5 zations) is amended by inserting after part VIII the fol-
 6 lowing new part:

7 **“PART IX—SAVINGS FOR INDIVIDUALS WITH**
 8 **DISABILITIES**

“Sec. 530A. Disabled American Financial Security Accounts.

9 **“SEC. 530A. DISABLED AMERICAN FINANCIAL SECURITY AC-**
 10 **COUNTS.**

11 “(a) GENERAL RULE.—A Disabled American Finan-
 12 cial Security Account shall be exempt from taxation under
 13 this subtitle. Notwithstanding the preceding sentence,
 14 such account shall be subject to the taxes imposed by sec-
 15 tion 511 (relating to imposition of tax on unrelated busi-
 16 ness income of charitable organizations).

17 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-
 18 poses of this section—

19 “(1) DISABLED AMERICAN FINANCIAL SECUR-
 20 ITY ACCOUNT.—The term ‘Disabled American Fi-
 21 nancial Security Account’ means a trust created or
 22 organized in the United States (and designated as a
 23 Disabled American Financial Security Account at
 24 the time created or organized) exclusively for the
 25 purpose of paying qualified disability expenses of an

1 individual who is disabled and who is the designated
2 beneficiary of the trust, but only if the written gov-
3 erning instrument creating the trust meets the fol-
4 lowing requirements:

5 “(A) No contribution will be accepted—

6 “(i) unless it is in cash, and

7 “(ii) except in the case of rollover con-
8 tributions described in subsection (c)(4), if
9 such contribution would result in aggregate
10 contributions for the taxable year and all
11 preceding taxable years exceeding
12 \$500,000.

13 “(B) The trustee is a bank (as defined in
14 section 408(n)) or another person who dem-
15 onstrates to the satisfaction of the Secretary
16 that the manner in which that person will ad-
17 minister the trust will be consistent with the re-
18 quirements of this section.

19 “(C) No part of the trust assets will be in-
20 vested in life insurance contracts.

21 “(D) The assets of the trust shall not be
22 commingled with other property except in a
23 common trust fund or common investment
24 fund.

1 “(2) QUALIFIED DISABILITY EXPENSES.—The
2 term ‘qualified disability expenses’ means, with re-
3 spect to an individual with a disability, amounts paid
4 or incurred for—

5 “(A) education, medical care, employment
6 training, moving, daily subsistence, and assist-
7 ive technology, and

8 “(B) after the designated beneficiary has
9 attained the age of 18, housing and transpor-
10 tation.

11 “(3) INDIVIDUAL WITH A DISABILITY.—

12 “(A) IN GENERAL.—An individual is an in-
13 dividual with a disability if such individual has
14 been certified by a physician as having a dis-
15 ability.

16 “(B) DISABILITY.—The term ‘disability’
17 means disabled (within the meaning of section
18 1614(a)(3) of the Social Security Act (42
19 U.S.C. 1382c(a)(3)).

20 “(C) PHYSICIAN.—The term ‘physician’
21 has the meaning given to such term by section
22 1861(r)(1) of the Social Security Act (42
23 U.S.C. 1395x(r)(1)).

24 “(c) TAX TREATMENT OF DISTRIBUTIONS.—

1 “(1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, any amount paid or distrib-
3 uted out of a Disabled American Financial Security
4 Account shall be included in gross income by the
5 payee or distributee, as the case may be, for the tax-
6 able year in which received in the manner as pro-
7 vided in section 72.

8 “(2) DISTRIBUTIONS FOR BENEFIT OF DES-
9 IGNATED BENEFICIARY.—

10 “(A) IN GENERAL.—No amount shall be
11 includible in gross income under paragraph (1)
12 if the qualified disability expenses of the des-
13 ignated beneficiary during the taxable year are
14 not less than the aggregate distributions during
15 the taxable year.

16 “(B) DISTRIBUTIONS IN EXCESS OF EX-
17 PENSES.—If such aggregate distributions ex-
18 ceed such expenses during the taxable year, the
19 amount otherwise includible in gross income
20 under paragraph (1) shall be reduced by the
21 amount which bears the same ratio to the
22 amount which would be includible in gross in-
23 come under paragraph (1) (without regard to
24 this subparagraph) as the qualified disability
25 expenses bear to such aggregate distributions.

“(C) DISALLOWANCE OF EXCLUDED AMOUNTS AS DEDUCTION, CREDIT, OR EXCLUSION.—No deduction, credit, or exclusion shall be allowed to the taxpayer under any other section of this chapter for any qualified disability expenses to the extent taken into account in determining the amount of the exclusion under this paragraph.

“(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR BENEFIT OF DESIGNATED BENEFICIARY.—

“(A) IN GENERAL.—The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from a Disabled American Financial Security Account shall be increased by 10 percent of the amount thereof which is includible in gross income under paragraph (1).

“(B) EXCEPTION.—Subparagraph (A) shall not apply if the payment or distribution is made to a beneficiary (or to the estate of the designated beneficiary) on or after the death of the designated beneficiary.

“(C) CONTRIBUTIONS RETURNED BEFORE CERTAIN DATE.—Subparagraph (A) shall not

1 apply to the distribution of any contribution
2 made during a taxable year if—

3 “(i) such distribution is made before
4 the first day of the sixth month of the tax-
5 able year following the taxable year, and

6 “(ii) such distribution is accompanied
7 by the amount of net income attributable
8 to such excess contribution.

9 Any net income described in clause (ii) shall be
10 included in gross income for the taxable year in
11 which such excess contribution was made.

12 “(4) ROLLOVERS.—Paragraph (1) shall not
13 apply to any amount paid or distributed from a Dis-
14 abled American Financial Security Account to the
15 extent that the amount received is paid, not later
16 than the 60th day after the date of such payment
17 or distribution, into another Disabled American Fi-
18 nancial Security Account for the benefit of the same
19 beneficiary. The preceding sentence shall not apply
20 to any payment or distribution if it applied to any
21 prior payment or distribution during the 12-month
22 period ending on the date of the payment or dis-
23 tribution.

24 “(5) CHANGE IN BENEFICIARY.—Any change in
25 the beneficiary of a Disabled American Financial Se-

1 curity Account shall not be treated as a distribution
2 for purposes of paragraph (1) if the new beneficiary
3 is disabled and is a member of the family (as defined
4 in section 529(e)(2)) of the old beneficiary.

5 “(d) TAX TREATMENT OF ACCOUNTS.—Rules similar
6 to the rules of paragraphs (2) and (4) of section 408(e)
7 shall apply to any Disabled American Financial Security
8 Account.

9 “(e) COMMUNITY PROPERTY LAWS.—This section
10 shall be applied without regard to any community property
11 laws.

12 “(f) CUSTODIAL ACCOUNTS.—For purposes of this
13 section, a custodial account shall be treated as a trust if—

14 “(1) the assets of such account are held by a
15 bank (as defined in section 408(n) or another person
16 who demonstrates, to the satisfaction of the Sec-
17 retary, that the manner in which he will administer
18 the account will be consistent with the requirements
19 of this section, and

20 “(2) the custodial account would, except for the
21 fact that it is not a trust, constitute an account de-
22 scribed in subsection (c)(1).

23 For purposes of this title, in the case of a custodial ac-
24 count treated as a trust by reason of the preceding sen-

1 tence, the custodian of such account shall be treated as
2 the trustee thereof.

3 “(g) REPORTS.—The trustee of a Disabled American
4 Financial Security Account shall make such reports re-
5 garding such account to the Secretary and to the bene-
6 ficiary of the account with respect to contributions, dis-
7 tributions, and such other matters as the Secretary may
8 require. The reports required by this subsection shall be
9 filed at such time and in such manner and furnished to
10 such individuals at such time and in such manner as may
11 be required.

12 “(h) COORDINATION WITH MEANS-TESTED PRO-
13 GRAMS.—Amounts held by, or paid or distributed from,
14 a Disabled American Financial Security Account shall not
15 be taken into account in determining eligibility for, or the
16 amount or extent of, benefits provided by any program
17 funded in whole or in part with Federal funds.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) PENALTY FOR FAILURE TO MEET MINIMUM
20 DISTRIBUTION REQUIREMENT.—Subsection (c) of
21 section 4974 of such Code is amended by striking
22 “or” at the end of paragraph (4), by striking the pe-
23 riod at the end of paragraph (5) and inserting “,
24 or”, and by inserting after paragraph (5) the fol-
25 lowing new paragraph:

1 “(6) any Disabled American Financial Security
2 Account (as defined in section 530A(b)).”.

3 (2) TAX ON PROHIBITED TRANSACTIONS.—Sub-
4 section (c) of section 4975 of such Code (relating to
5 tax on prohibited transactions) is amended by add-
6 ing at the end the following new paragraph:

7 “(7) SPECIAL RULE FOR DISABLED AMERICAN
8 FINANCIAL SECURITY ACCOUNTS.—An individual for
9 whose benefit a Disabled American Financial Secu-
10 rity Account is established and any contributor to
11 such account shall be exempt from the tax imposed
12 by this section with respect to any transaction con-
13 cerning such account (which would otherwise be tax-
14 able under this section) if section 530A(d) applies
15 with respect to such transaction.”.

16 (3) REPORTS.—Paragraph (2) of section
17 6693(a) of such Code is amended by redesignating
18 subparagraphs (D) and (E) as subparagraphs (E)
19 and (F), respectively, and by inserting after sub-
20 paragraph (C) the following new subparagraph:

21 “(D) section 530A(g) (relating to Disabled
22 American Financial SecurityAccounts).”.

23 (c) CLERICAL AMENDMENT.—The table of parts for
24 subchapter F of chapter 1 of such Code is amended by

1 inserting after the item relating to part VIII the following
2 new item:

“PART IX. SAVINGS FOR INDIVIDUALS WITH DISABILITIES.”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2006.

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